

ENTERED

August 08, 2019

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

UNITED STATES OF AMERICA

§

VS.

§

HOWARD BACH

§

CIVIL ACTION NO. 5:18-CV-84

§

§

ORDER

In June of 2018, the Government sued Defendant Howard Bach to recover civil penalties assessed against him for willful failure to file Reports of Foreign Bank and Financial Accounts (FBARs) in tax years 2009 and 2010. (Dkt. 1.) *See* 31 U.S.C. § 5321(a)(5)(C). When Defendant did not file an answer or otherwise appear in the case, the Government moved for default judgment. (Dkt. 13.) In July of 2019, the Court granted the Government's motion as to Defendant's liability but denied it as to damages, finding that the Government had not provided sufficient proof of the damages it sought to collect. (Dkt. 15.) *See Compass Bank v. Alarcon*, 2017 WL 3253096, at *1 (S.D. Tex. Feb. 24, 2017) (citing *James v. Frame*, 6 F.3d 307, 310 (5th Cir. 1993)) (noting that a plaintiff seeking default judgment must prove its damages via detailed affidavits, documentary evidence, or the record itself).

Per the Court's order, the Government has now renewed its motion for default judgment and provided supplemental evidence in support of its damages demand. (Dkt. 16; *see* Dkt. 15 at 6.) Specifically, the Government has furnished (1) the declaration of an FBAR Penalty Coordinator explaining how the Government calculated the interest and penalties it seeks; (2) the declaration of an Internal Revenue Agent explaining how the IRS calculated the original assessments against Defendant; (3) copies of Defendant's amended FBARs; and (4) copies of the IRS's original penalty assessments. (Dkt. 16, Attach. 1–4.) These records show that the

Government's requested damages consist of \$801,834.00 in principal; \$24,801.93 in interest accrued through July 26, 2019; and \$148,120.39 in late-payment penalties pursuant to 31 U.S.C. § 3717(e)(2). Based on the Court's review of the relevant statutes and the Government's supplemental evidence, the Court finds that the Government is entitled as a matter of law to its total requested damages of \$974,756.32. *See United States v. Katwyk*, 2017 WL 6021420, at *5 (C.D. Cal. Oct. 23, 2017).

Accordingly, the Government's motion for default judgment (Dkt. 16) is hereby GRANTED. The Government is awarded \$801,834.00 in principal, \$24,801.93 in interest, and \$148,120.39 in penalties. In addition, post-judgment interest will accrue at the applicable statutory rate. A separate final judgment will issue.

IT IS SO ORDERED.

SIGNED this 8th day of August, 2019.



Diana Saldaña
United States District Judge